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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,273	02/09/2001	Barrie R. Froseth	5390USA	8033
21186	7590	11/27/2007		
SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER THAKUR, VIREN A	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 11/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
After the Filing of an Appeal Brief

Application No.

09/780,273

Examiner

Viren Thakur

Applicant(s)

FROSETH ET AL.

Art Unit

1794

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 09 October 2007 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The reply will not be entered because the amendment is not relevant to the new ground of rejection. The new ground of rejection was set forth since instant claim 144 depended on a claim that was not rejected under 35 U.S.C. 102(b) but rather under 35 U.S.C. 103(a). It is further asserted that the references applied have not changed and regardless, the primary reference to Ezzat, applied under 102(b) and 103(a) still teaches the limitation of instant claim 144, that is, wherein the flavoring constitutes salt. The response by appellant significantly changes the claim limitations but which would not have been necessitated by the new ground of rejection

Since appellants reply does not comply with 37 CFR 41.39(b), wherein the reply must be relevant to the new ground of rejection, it will not be entered.

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1794
11/26/07